IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

RP.No. 672 of 2007(H)

AGAINST THE JUDGEMENT IN WPC.33675/2006 Dated 31/01/2007
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REVIEW PETITIONER/3RD PARTY:

GOPAKUMAR.K.V.,
PALPRAKUTTIKKAT HOUSE,
SREEMOOLANAGARAM,
ALUVA-683 580.

BY ADV. SRI.A.JAYASANKAR,
SRI.MANU GOVIND.

RESPONDENTS/PETITIONERS & RESPONDENTS 1 & 2 IN THE WRIT PETITION & ADDITIONAL RESPONDENT:
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1. **SRI. M. SIVARAMA MENON, SARIKA, KUTTIKADU ROAD, SREEMOOLANAGARAM, ERNAKULAM.**
2. **SMT. SARADA MENON, W/O. M. SIVARAMA MENON, SARIKA, KUTTIKADU ROAD, SREEMOOLANAGARAM, ERNAKULAM.**
3. **THE DISTRICT COLLECTOR, ERNAKULAM.**
4. **SRI. P.K. NALAN, ADDITIONAL TAHSILDAR, ALUVA.**
5. **THE DEPUTY DIRECTOR OF SURVEY AND LAND RECORDS, ERNAKULAM, COLLECTORATE, CIVIL STATION, ERNAKULAM.**

BY ADV. SRI.R. MOHAN C.MENON,
GOVERNMENT PLEADER.

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 09/08/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

THOTTATHIL B. RADHAKRISHNAN, J.

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R.P.672/2007 in WP(C).33675/2006-H

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Dated this the 9th day of August, 2007.

O R D E R

This review petition had been filed with an application for leave to seek review. Leave was granted. Review petition taken on file. Learned counsel for the review petitioner and the learned counsel for the writ petitioners have been heard.

2. The proceedings about which the petitioners complained in the writ petition related to action taken by the revenue authorities at the instance of the panchayat authorities. It appears that the petitioners moved the panchayat and that ultimately triggered the proceedings before the revenue authorities.

3. The judgment sought to be reviewed was issued on the basis that Ext.P5 is an appeal against the decision contained in Ext.P4 following the order of remit contained

in Ext.P3. Though Ext.P3 is stated in the judgment dated 31-1-2007 as having been issued by the Deputy Director of Survey, it was essentially the Superintendent of Survey holding also the charge of the Deputy Director who issued that order. So much so, Ext.P5 needs to be taken up by the Superintendent of Survey instead of Deputy Director of Survey unless both the offices are held by the same person. Another grievance of the writ petitioners is that the reliefs sought for in Ext.P5 are not those that could be granted in an appeal against Ext.P4 and would be beyond the jurisdiction of the appellate authority, who has to consider Ext.P5. It has to be at once noticed that the judgment dated 31-1-2007 does not, in any manner, deal with the maintainability or scope of Ext.P5 appeal. It is also pointed out that there are civil suits pending between the writ petitioners and the Government or the panchayat, as the case may be.

4. n the aforesaid circumstances, noticing that it is an error apparent on the face of the judgment dated 31-1-2007 to have stated that Ext.P5 has to be taken up by the Deputy

Director, that judgment is reviewed and it is directed that Ext.P5 shall be taken up by the Superintendent of Survey, Ernakulam and the said officer will consider that appeal after hearing the parties to those proceedings by also considering the question as to the maintainability of such an appeal and the scope of the appeal and the reliefs that could be granted in such proceedings. If the Superintendent of Survey is also exercising the powers of the Deputy Director, it would be sufficient that the same officer disposes of the matter. If such proceedings have already been heard and decided in terms of what is stated above, that order would suffice to satisfy the directions contained in the judgment dated 31-1-2007 as reviewed hereby. In such event, it is clarified that the correctness of that order is not being examined in these proceedings.

The review petition is disposed of as above.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

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